

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:17-CV-98-FL

WAI MAN TOM,

Plaintiff,

v.

HOSPITALITY VENTURES LLC doing
business as Umstead Hotel and Spa; SAS
INSTITUTE, INC.; NC CULINARY
VENTURES LLC, doing business as An
Asian Cuisine,

Defendants.

ORDER

This matter is before the court on defendants' motion for extension of time to complete discovery (DE 175). At hearing on the motion, held January 12, 2022, the court directed the parties to confer and file, by January 18, 2022, a proposed consent order memorializing agreed upon deadlines, if any. On that date, the parties instead filed a joint motion regarding the hearing, in which they set forth their points of agreement and disagreement (DE 180). Upon consideration of the joint motion, the court orders as follows:

A. Agreed Upon Deadlines

1. Defendants may take the deposition of the three individuals, specifically the one FLSA opt-in plaintiff, Joseph Hardin, and two Rule 23 class members, Taylor Rogan and Ruth Lee, no later than February 2, 2022.

2. Plaintiff shall provide substantive responses to defendants' written discovery requests, as to Taylor Rogan and Ruth Lee, to best of these individual's recollection and

knowledge, and such discovery responses will be due no later than three days before the scheduled depositions of Rule 23 class members Rogan and Lee.

3. The above-referenced depositions will occur on dates to be agreed upon by the parties but will occur no later than February 2, 2022. Each deposition is limited to no more than three hours, and the depositions will take place on one day, no later than February 2, 2022. They will be conducted remotely. Plaintiff shall provide dates and times that the deponents are available for these depositions no later than January 21, 2022.

4. Disclosures required by Federal Rule of Civil Procedure 26(a)(2), including reports from retained experts, shall be served by plaintiff by March 15, 2022, and by defendants by April 15, 2022. Disclosures and reports by any rebuttal experts shall be served by April 29, 2020.

5. All discovery shall be commenced or served in time to be completed by May 13, 2022.¹

6. All potentially dispositive motions shall be filed by June 3, 2022.

All other terms and conditions set forth in the court's February 22, 2021, amended case management order, not altered herein, shall remain in full force and effect.

B. Point of Disagreement

The parties disagree regarding plaintiff's need to respond to outstanding written discovery served on absent Rule 23 class members, beyond the limitations set forth in section A., herein. The parties seek guidance from the court on whether to brief this issue or to hold a second hearing to hear further argument on this issue. Because the issue raised involves interpretation of case law, as previewed at hearing held January 12, 2022, the court directs the parties to brief this issue. In particular, defendants are DIRECTED to file a supplemental brief in support of their position on


¹ Although the parties did not propose a new deadline for completion of all discovery, the court has imposed a new deadline based upon the parties' proposed deadlines for expert rebuttal reports and dispositive motions.

this issue, on or before January 31, 2022. Plaintiff is DIRECTED to file a response brief on or before February 10, 2022. There shall be no reply. Thereupon, the court will enter such further order as is warranted regarding this part of defendants' motion held in abeyance pending supplemental briefing.

CONCLUSION

Based on the foregoing, the court GRANTS IN PART defendants' motion for extension of time to complete discovery (DE 175), to the extent set forth herein. The court HOLDS IN ABEYANCE the remaining part of defendants' motion to permit supplemental briefing as set forth herein. Accordingly, the clerk is DIRECTED to terminate the parties' joint motion regarding motion hearing (DE 180).

SO ORDERED, this the 19th day of January, 2022.



LOUISE W. FLANAGAN
United States District Judge